Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

IN THE

Supreme Court of the United States

OCTOBER TERM, 1975

NO. 75-174

ALAN ERNEST, Guardian for Unborn Children;
And Pro Se.
Petitioner

v.

ANDREW P. MILLER, Attorney General of Virginia

PETITION FOR A WRIT OF CERTIORARI TO THE SUPREME COURT OF VIRGINIA

ALAN ERNEST
5713 Harwich Court No. 232
Alexandria, Virginia 22311

The Petitioner Pro Se

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v.

ANDREW P. MILLER, Attorney General of Virginia

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Alan Ernest, the petitioner, hereinafter referred to as the 'Guardian," prays that a writ of certiorari issue to review the judgment of the Supreme Court of Virginia, entered in the above titled case on May 8, 1975.

OPINION BELOW

The Guardian is not aware that any courts below have written any opinions.

JURISDICTION

1. The judgment of the Supreme Court of Virginia (Appendix, infra, p. A1) was entered on May 8, 1975.

2. There has been no order concerning either a rehearing or an extension of time within which to petition for certiorari.

3. The jurisdiction of this Court is invoked under 28 U.S.C. § 1257(3).

QUESTIONS PRESENTED

The Guardian discovered evidence which he submits proves that this Court took judicial notice of false evidence in Roe v Wade, 410 US 113, and that the case rests upon this untrue evidence. The document (Exhibit One: Evidence For Judicial Notice Concerning Roe v Wade) which the Guardian submits proves the above, beyond a reasonable doubt, has been placed in the file of this case in the office of the Clerk of this Court.

41 LW 4213

1. Can Roe v Wade stand if it is shown to rest on evidence that is not true?

2. Once a prima facie showing is made that a constitutional decision rests upon false evidence, and especially when human life is involved, can the Supreme Court take any course other than to re-examine the decision in a judicial proceeding so that the truth can be determined?

CONSTITUTIONAL PROVISIONS INVOLVED

The parts of the Fourteenth Amendment to the Constitution applicable to Roe v Wade are sufficiently known to the Court not to require quotation.

STATEMENT OF THE CASE

In 1974, after six months of research, the Guardian, a lawyer, documented evidence which he submits proves that the Supreme Court, partly by its own research, took judicial notice

of false evidence in the abortion case, Roe v Wade, and that the decision rests upon this untrue evidence. As mentioned above, this document has been filed with the Clerk of this Court.

It seemed obvious to the Guardian that the Constitution reigned supreme over all government and that no branch of government, including the U.S. Supreme Court, can legally attempt to change the Constitution by constructions based upon evidence that is not true, or the Constitution would be abolished.

The complaint seeking a declaratory judgment that Roe v Wade was unconstitutional because it rested upon false evidence was filed in the Circuit Court in the City of Richmond. Jurisdiction was independently based upon both 42 U.S.C. § 1983 and Virginia Code 1950, § 8-578 so that the case could not be decided solely upon state grounds. Without taking any evidence, the trial court sustained both the defendant's Demurrer and Motion to Dismiss. The Guardian had not sought any order to arrest or nullify the Roe v Wade case.

The Demurrer contained only two reasons:

"1. The plaintiff lacks standing to seek declaratory relief."

"2. No actual controversy exists for which declaratory relief may be granted."

"The defendant requests that this Court enter final judgment in his favor based upon the pleadings."

Both the state court's jurisdiction, and the Guardian's standing, under 42 U.S.C. § 1983, are federal questions and supported by federal case precedent; whether the facts alleged by the Guardian create a legal controversy is the very federal question at issue.

In granting a demurrer, a court holds that, admitting the facts alleged in the complaint to be true, no legal wrong is established. Reid v Field, 83 Va 26, 29 (1887). The Guardian submits that the Supreme Court of Virginia, by affirming the

Demurrer, effectively adopted the surprising position that even if what the Guardian alleged be true, and Roe v Wade rested upon evidence that is not true, Roe v Wade was still valid and constitutional.

However, regardless of the construction given the Demurrer, or the efforts by the lower courts to evade the clear federal question, it would not affect the duty of the Supreme Court to correct its own errors. Based upon the newly discovered evidence, this Court is being petitioned to reconsider Roe v Wade. The Supreme Court has reconsidered, and reversed, many of its decisions in the past. And indeed, how could the Court fulfill its oath to uphold the Constitution unless it corrects demonstrated errors? The Guardian requests a fair and impartial hearing so that the truth can be determined.

HOW THE FEDERAL QUESTION WAS RAISED

The federal question was raised at every step of the proceedings in the courts below; in the trial court by the complaint; and in the Supreme Court of Virginia on appeal. The Complaint for Declaratory Judgment (pp. 2,3) reads as follows:

"9. The United States Constitution did not intend constitutional decisions by the United States Supreme Court to bind the nation when shown to be unequivocally wrong, based upon assumed historical evidence that is clearly false, and wantonly destructive of human life without due process of law."

. . . .

"Wherefore Plaintiff Prays: That after a full hearing this court will declare that the decision of the United States Supreme Court in excluding unborn persons from the protection of the United States Constitution in Roe v Wade, 35 L Ed 2d 147, and Doe v Bolton, 35 L Ed 2d 201, was unconstitutional . . . and consequently deprives unborn persons of life without due process of law."

The "Petition for Appeal" and the "Appendix to the Petition for Appeal" show how exhaustingly the issue was presented the Supreme Court of Virginia on appeal. Under these circumstances, there was a timely raising of the federal question.

REASONS FOR GRANTING THE WRIT

It is no exaggeration to say that this is one of the greatest constitutional issues in the history of constitutional government and challenges its very survival.

The Guardian submits the following analysis, not with the intention of wounding or condemning the Court, but because it is his duty as a Guardian and a lawyer to submit his honest forthright appraisal so that alternatives and consequences may be properly considered. The Guardian files this petition with the belief that this Court, as honest men under oath, when fully and accurately informed, will do what is right to correct any error.

If what the Guardian alleges be true, then the U.S. Supreme Court has committed one of the most astounding judicial errors in the history of the world. It would mean that the U.S. Supreme Court asserted that it knew facts to be true, which it did not know to be true, and the slightest investigation would have shown that the evidence was not true, and the Court could not have reached its conclusion but for this evidence. And as Lincoln once warned: "[H]e who asserts a thing which he does not know to be true, falsifies as much as he who knowingly tells a falsehood." 3 The Collected Works of Abraham Lincoln 22 (R. Basler ed. 1953)

On top of this, authorities estimate that about one million unborn persons are now being killed annually. If this figure be true, it ranks the destruction of human life, under the sanction of Roe v Wade, on a magnitude almost unparalleled in the history of civilization.

If what the Guardian alleges be true, then the Guardian submits that the only words that adequately describe Roe v Wade are the words that Lincoln used to describe the Dred Scott decision: "It is the first of its kind; it is an astonisher in legal history. It is a new wonder of the world. It is based upon falsehood in the main as to the facts . . . upon which it stands . . ." 2 The Collected Works of Abraham Lincoln 495 (R. Basler ed. 1953)

The Guardian submits that this petition raises the following hypothetical question: If a prima facie showing is made, documented and presented to a Court, that its constitutional decision rests on evidence that is not true; and if that Court had no rebuttal evidence which would prevent a fair hearing from finding that the case did rest on false evidence; and if that Court, after receiving this information, declined to hold that hearing; and if that Court subsequently continued to adhere to that decision, – would it not raise the question whether or not the Justices of that Court had knowingly adopted false evidence?

The Supreme Court has itself held, countless times through the years, that Justices must be ever watchful not to allow their own sincerely held beliefs to blind them to the truth. In Dred Scott v Sanford, 19 How. 393, various Justices endorsed the sincerely held belief that the Black race was inferior and excluded them from the Constitution. This Court must not follow that precedent and allow its own expressed belief that unborn persons are inferior (or incapable of "meaningful life") to supplant constitutional history and lead it to the erroneous conclusion that the Unborn were excluded from the Constitution. As the Court has continually reminded itself, a Justice's sworn duty is to determine what the Constitution says, not to enact his own sincere beliefs into law.

The Guardian submits that, at a fair hearing where all the facts can be heard, the correct constitutional history, and fair reasoning, will establish, beyond a reasonable doubt, that the Supreme Court's evidence is not true, and that Roe v Wade rests

upon this evidence. Would not a denial of this petition arguably endorse the imperious position that the Supreme Court can, without question or explanation, rest its decisions upon evidence that is not true?

The Guardian submits that it is obvious that a documented challenge, that an unwanted minority has been ruled out of the human race by false evidence so that they may be exterminated for convenience, must be either answered or corrected. How can the American people have faith in the rule of constitutional law over government until a full, fair, impartial hearing determines the truth? For as long as there is an unanswered challenge that Supreme Court Justices, elected by no one, holding office for life, independent of the people, have assumed the power to strike down the laws enacted by the people's representatives elected throughout the land, and to substitute their own decree based upon personal opinion and false evidence, and destroy millions of lives by this decree, the Guardian asks, as long as this challenge remains either unanswered, or uncorrected, are Americans not justified to question whether or not democracy, and the rule of constitutional law over government, have been abolished?

CONCLUSION

For the foregoing reasons, the Guardian respectfully requests that this petition for a writ of certiorari be granted so that the truth can be determined.

Alan Ernest
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Alexandria, Virginia 22311
The Petitioner Pro Se

APPENDIX

Judgment Below

VIRGINIA:

In the Supreme Court of Virginia held at the Supreme Court Building in the City of Richmond on Thursday the 8th day of May, 1975.

The petition of Alan Ernest for an appeal from an order entered by the Circuit Court of the City of Richmond, Division I, on the 10th day of September, 1974, in a certain proceeding then therein depending, under the short style of: *Alan Ernest* v. *Andrew P. Miller, Attorney General of Virginia*, having been maturely considered and a transcript of the record of the order aforesaid seen and inspected, the court being of opinion that there is no reversible error in the order complained of, doth reject said petition, and refuse said writ of error, the effect of which is to affirm the order of the said circuit court.

Record No. 741251

A Copy,
Teste:
Howard G. Turner, Clerk
By: /s/ Allen L. Lucy
Deputy Clerk